

### **REMARKS**

Claims 1, 2, 4-15, and 17-22 were pending in the application. The Office Action dated July 22, 2008 ("Office Action") objected to the specification for failing to provide a proper antecedent basis for the claimed subject matter. The Office Action rejected claims 1, 2, 4-15, and 17-20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,156,594 to Keith ("Keith") in view of U.S. Patent No. 5,846,246 to Dirks et al. ("Dirks"). Claims 21 and 22 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Keith in view of Dirks and further in view of U.S. Patent No. 6,030,405 to Zarbatany et al. ("Zarbatany"). Lastly, the Office Action rejected claims 1, 2, 4-15, and 18 for obviousness-type double patenting based on claims 1-15 of U.S. Patent No. 6,635,029.

By the present Response, claims 1, 2, 4-15, and 17-22 have been canceled without prejudice or disclaimer, and new claims 23-27 have been introduced for examination on the merits. No new matter has been added. Claims 23-27 are now pending in the present application. Reconsideration of the previously rejected claims and favorable action is requested in light of the above amendments and the following remarks.

#### **Specification Objection**

The Office Action objected to the Specification for failing to provide proper antecedent basis for the claimed subject matter. In particular, the Office Action stated that the Specification fails to disclose a portion of the guide tube adjacent to the guide tube proximal end resting on the outside of the deflected and inclined part of the main tube. Applicant submits that paragraph 18 of the Specification discloses this feature of the claims:

**[0018]** As is shown in the drawing, the proximal end **12'** of the distal tube **12** is flared so as to fit on the distal end **11'** of the main tube and at the same time to enclose the proximal end **13'** of the guide tube **13**. Moreover, this same end **13'** of the guide tube **13** is put on the outside of the distal end **11'** of the main tube, on a part **11"** which is deflected and inclined towards the axis of the tube itself, or more preferably and for a greater robustness of the resulting unit, the guide tube **13** is made to pass in an opening **11** a provided in the main tube as shown in **FIG. 1**.

Therefore, because the claims find proper support in the Specification, Applicant respectfully requests that the objection be withdrawn.

Claim Rejections – 35 U.S.C. § 103(a)

The Office Action rejected claims 1, 2, 4-15, and 17-20 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Keith in view of Dirks. Applicant respectfully submits that the combination of Keith and Dirks fails to teach all the features of new independent claim 23. Claim 23 recites “[a] method for manufacturing a dilation catheter structure” that comprises, among others, the steps of “inserting the deflected and inclined distal end of the main tube into the distal tube flared proximal end, so that the proximal end of the guide tube is put on the outside of said deflected and inclined distal end of the main tube” and “fixing said distal end of said main tube, said proximal end of said guide tube and said flared proximal end of said distal tube to one another by means of a heat-sealing operation.”

According to the Office Action, Figure 2 of Keith shows a catheter structure having a distal tube (82), a guide tube (80), and a main tube (22) with a deflected and inclined portion (72). Even assuming *arguendo* that this characterization of Keith is correct, the deflected and inclined portion (72) of the main tube (22) is completely outside of and external to the distal tube (82). Therefore, Figure 2 of Keith fails to disclose the step of “inserting the deflected and inclined distal end of the main tube into the distal tube flared proximal end.” The Office Action also asserts that Figure 7 of Keith shows a catheter structure having a distal tube (82C), a guide tube (80C), and a main tube (22C) with a lateral opening (119) that can be considered a deflected and inclined portion. As an initial matter, Applicant disagrees that the lateral opening (119) can be considered a deflected and inclined portion. However, even assuming *arguendo* that the Office Action’s characterization of Figure 7 is correct, the lateral opening (119) of the main tube (22C) is completely outside of and external to the distal tube (82C). Thus, Figure 7 also fails to show the step of “inserting the deflected and inclined distal end of the main tube into the distal tube flared proximal end.” This feature of claim 23 provides a significant advantage over the catheter disclosed in Keith. For example, by inserting the deflected and inclined portion of the

main tube into the distal tube, the catheter structure of the present invention is more resilient to the forces that can be imposed on the catheter during use and is more effective at providing a tight seal between the main tube and the distal tube.

Dirks fails to compensate for the deficiency in Keith. The Office Action relied on Figure 4 of Dirks as showing the proximal end of a guide tube (96) resting on the outside of the deflected and inclined portion of a main tube (102). Nothing in Dirks mentions or even suggests a distal tube, and thus it does not teach the step of inserting the deflected and inclined portion of a main tube into a distal tube.

In sum, Applicant respectfully submits that claim 23 is distinguishable from the combination of Keith and Dirks. Dependent claims 24-27 incorporate all the features of the claim 23, and thus are also distinguishable over Keith in view of Dirks for at least the reasons discussed above. Applicant also notes that the Office Action rejected claims 21 and 22 under 35 U.S.C. § 103(a), as being unpatentable over Keith in view of Dirks and further in view of Zarbatany. However, nothing in Zarbatany compensates for the deficiency in Keith and Dirks discussed above.

For all of the foregoing reasons, Applicant respectfully submits that claims 23-27 are allowable over the cited prior art. Favorable reconsideration of the claims is requested, including removal of the rejections under 35 U.S.C. § 103(a).

#### Obviousness-Type Double Patenting

The Office Action rejected claims 1, 2, 4-15, and 18 for obviousness-type double patenting based on claims 1-15 of U.S. Patent No. 6,635,029. The claims of U.S. Patent No. 6,635,029 are directed toward a dilation catheter structure, whereas claims 23-27 of the present application are directed toward a method for manufacturing a dilation catheter structure. Therefore, Applicant submits that claims 23-27 of the present application are patentably distinct from the claims of U.S. Patent No. 6,635,029, and respectfully requests that the obviousness-type double patenting rejections be withdrawn.

**CONCLUSION**

In view of the foregoing, the Applicant submits that this application is in condition for allowance and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this case might be advanced by discussing the application with the Applicant's representative, in person, or over the telephone, we would welcome the opportunity to do so.


EXCEPT for fees payable under 37 CFR §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application, including fees due under 37 CFR §1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to deposit account No. 50-1349. This paragraph is intended to be a constructive petition for extension of time in accordance with 37 CFR §1.136(a)(3).

Respectfully submitted,

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